

303 Rec'd PCT/PTO

OCT 1998

Pct

CASE 4-30028/A/PCT

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Assistant Commissioner for Patents, Washington, D.C. 20231.

Joseph J. Borovian  
Type or print name

*Joseph J. Borovian*  
Signature

October 1, 1998  
Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE PCT NATIONAL STAGE APPLICATION OF

PORTMANN ET AL.

INTERNATIONAL APPLICATION NO: PCT/EP 98/03427

FILED: 8 JUNE 1998

U.S. APPLICATION NO: 09/125,329

35 USC §371 DATE:

FOR: CRYSTAL MODIFICATION OF A PHARMACEUTICAL AGENT

Assistant Commissioner for Patents  
Washington, D.C. 20231

TRANSMITTAL OF SUBSTITUTE DECLARATION

Sir:

Please make of record the enclosed "substitute" Declaration. It is being submitted because one of the boxes in the Declaration that was forwarded to the U.S. Patent and Trademark Office on September 3, 1998 was inadvertently not X'ed, viz., the "Yes" box on Page 2 relating to the Swiss priority application.

Respectfully submitted,

Novartis Corporation  
Patent and Trademark Dept.  
564 Morris Avenue  
Summit, NJ 07901-1027  
(908) 522-6921

*Joseph J. Borovian*  
Joseph J. Borovian  
Agent for Applicants  
Reg. No. 26,631

JJB:pk  
Encls.: "Substitute" Declaration  
Postcard  
Date: October 1, 1998

**FILING BY "EXPRESS MAIL" UNDER 37 CFR 1.10**

EL073187805US  
Express Mail Label Number

August 14, 1998  
Date of Deposit

Form PTO-1390-MOD  
(REV 10-96)

U. S. Department of Commerce Patent and Trademark Office

ATTORNEY'S DOCKET NUMBER  
4-30028/A/PCT

U.S. APPLICATION NO. (If known, see 37 CFR 1.5)

**TRANSMITTAL LETTER TO THE UNITED STATES  
DESIGNATED/ELECTED OFFICE (DO/EO/US)  
CONCERNING A FILING UNDER 35 U.S.C. 371**

INTERNATIONAL APPLICATION NO.  
PCT/EP 98/03427

INTERNATIONAL FILING DATE  
8 June 1998 (08.06.98)

PRIORITY DATE CLAIMED  
10 June 1997 (10.06.97)

TITLE OF INVENTION  
CRYSTAL MODIFICATION OF A PHARMACEUTICAL AGENT

APPLICANT(S) FOR DO/EO/US  
ROBERT PORTMANN, URS CHRISTOPH HOFMEIER, ANDREAS BURKHARD, WALTER SCHERRER AND MARTIN SZELAGIEWICZ

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

1. ☒ This is a **FIRST** submission of items concerning a filing under 35 U.S.C. 371.
2. ☐ This is a **SECOND** or **SUBSEQUENT** submission of items concerning a filing under 35 U.S.C. 371.
3. ☐ This express request to begin national examination procedures (35 U.S.C. 371(f)) at any time rather than delay examination until the expiration of the applicable time limit set in 35 U.S.C. 371(b) and PCT Articles 22 and 39(1).
4. ☒ A proper Demand for International Preliminary Examination was made by the 19th month from the earliest claimed priority date.
5. ☒ A copy of the International Application as filed (35 U.S.C. 371(c)(2))
  - a. ☐ is transmitted herewith (required only if not transmitted by the International Bureau).
  - b. ☒ has been transmitted by the International Bureau. (See Form PCT/IB/308)
  - c. ☐ is not required, as the application was filed in the United States Receiving Office (RO/US).
6. ☐ A translation of the International Application into English (35 U.S.C. 371(c)(2)).
7. ☒ Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3)).
  - a. ☐ are transmitted herewith (required only if not transmitted by the International Bureau).
  - b. ☐ have been transmitted by the International Bureau.
  - c. ☐ have not been made; however, the time limit for making such amendments has NOT expired.
  - d. ☒ have not been made and will not be made.
8. ☐ A translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371 (c)(3)).
9. ☒ An unexecuted Declaration and Power of Attorney (original or copy) (35 U.S.C. 371(c)(4)).
10. ☐ A translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)).

Items 11. to 16. below concern document(s) or information included.

11. ☐ An Information Disclosure Statement under 37 CFR 1.97 and 1.98.
12. ☐ An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.
13. ☒ A FIRST preliminary amendment.  
☐ A SECOND or SUBSEQUENT preliminary amendment.
14. ☐ A substitute specification.
15. ☐ A change of power of attorney and/or address letter.
16. ☐ Other items or information:

U.S. APPLICATION NO. (if known, see 37 CFR 1.5)		INTERNATIONAL APPLICATION NO. <b>PCT/EP 98/03427</b>		ATTORNEY'S DOCKET NUMBER <b>4-30028/A/PCT</b>																	
<div>17. <input checked="" type="checkbox"/> The following fees are submitted:</div> <div><b>BASIC NATIONAL FEE (37 CFR 1.492(a) (1)-(5)):</b></div> <div><div>Search Report has been prepared by the EPO or JPO ..... \$930</div><div>International preliminary examination fee paid to USPTO (37 CFR 1.482) ..... \$720</div><div>No international preliminary examination fee paid to USPTO (37 CFR 1.482) but international search fee paid to USPTO (37 CFR 1.445(a)(2)) ..... \$790</div><div>Neither international preliminary examination fee (37 CFR 1.482) nor international search fee (37 CFR 1.445(a)(2)) paid to USPTO. .... \$1,070</div><div>International preliminary examination fee paid to USPTO (37 CFR 1.482) and all claims satisfied provisions of PCT Article 33(2)-(4). .... \$98</div></div>				CALCULATIONS PTO USE ONLY																	
				ENTER APPROPRIATE BASIC FEE AMOUNT = \$ 930																	
				Surcharge of \$130 for furnishing the oath of declaration later than <input type="checkbox"/> 20 <input type="checkbox"/> 30 months from the earliest claimed priority date (37 CFR 1.492(e)). \$																	
				SUBTOTAL = \$ 1040																	
<table border="1" style="width:100%; border-collapse: collapse;"><thead><tr><th>CLAIMS</th><th>NUMBER FILED</th><th>NUMBER EXTRA</th><th>RATE</th></tr></thead><tbody><tr><td>Total claims</td><td>25 - 20 =</td><td>0</td><td>X \$ 22</td></tr><tr><td>Independent claims</td><td>3 - 3 =</td><td>0</td><td>X \$ 82</td></tr><tr><td colspan="3"></td><td>+ \$ 270</td></tr></tbody></table>				CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE	Total claims	25 - 20 =	0	X \$ 22	Independent claims	3 - 3 =	0	X \$ 82				+ \$ 270	TOTAL OF ABOVE CALCULATIONS = \$ 1040	
CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE																		
Total claims	25 - 20 =	0	X \$ 22																		
Independent claims	3 - 3 =	0	X \$ 82																		
			+ \$ 270																		
Reduction of 1/2 for filing by small entity, if applicable. Verified Small Entity Statement must also be filed (Note 37 CFR 1.9, 1.27, 1.28). \$				SUBTOTAL = \$ 1040																	
Processing fee of \$130 for furnishing the English translation later than <input type="checkbox"/> 20 <input type="checkbox"/> 30 months from the earliest claimed priority date (37 CFR 1.492(f)). \$				TOTAL NATIONAL FEE = \$ 1040																	
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40 per property \$				TOTAL FEES ENCLOSED = \$ 1040																	
				Amount to be: \$																	
				refunded \$																	
				charged \$																	

a. ☐ A check in the amount of \$ \_\_\_\_\_ to cover the above fees is enclosed.

b. ☒ Please charge Deposit Account No. 19-0134 in the amount of \$1040 to cover the above fees. A duplicate copy of this form is enclosed.

c. ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 19-0134.

NOTE: Where an appropriate time limit under 37 CFR 1.494 or 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the application to pending status.

Send all correspondence to the address associated with Customer No. 001095, which is currently:  
Michael W. Glynn  
Novartis Corporation  
Patent and Trademark Dept.  
564 Morris Avenue  
Summit, NJ 07901-1027

Joseph J. Borovian  
Agent for Applicants  
Reg. No. 26,634  
(908) 522-6921

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Assistant Commissioner for Patents, Washington, D.C. 20231.

JOSEPH J. BOROVIAN  
Type or print name

Joseph J. Borovian  
Signature

SEPTEMBER 3 1998  
Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE PCT NATIONAL STAGE APPLICATION OF  
PORTMANN ET AL.

INTERNATIONAL APPLICATION NO: PCT/EP 98/03427

FILED: 8 JUNE 1998

U.S. APPLICATION NO: 09/125,329

35 USC §371 DATE: HEREWITH

FOR: CRYSTAL MODIFICATION OF A PHARMACEUTICAL AGENT

Assistant Commissioner for Patents  
Washington, D.C. 20231

COMMUNICATION TRANSMITTING DECLARATION  
AND POWER OF ATTORNEY

Sir:

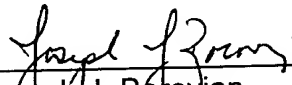
The above-identified case represents the "national stage" filing of International Application No. PCT/EP98/03427 filed June 8, 1998. Thus, on August 14, 1998, a Transmittal Letter concerning a filing under 35 USC 371 was forwarded to the U.S. Patent and Trademark Office (USPTO) by Express Mail, together with a Preliminary Amendment and a postcard. However, an executed Declaration of the inventors did not accompany the Transmittal Letter. Accordingly, appended hereto is an executed Declaration of the inventors as permitted under 35 USC 371(d). Since the Transmittal Letter: 1) indicated that the International Application as filed was transmitted by the International Bureau; and

2) authorized the charging of the national filing fee to Deposit Account No. 19-0134, and since an executed Declaration of the inventors is appended hereto, all of the requirements of 35 USC 371 are deemed to have been satisfied. In this connection, a copy of the Transmittal Letter is also appended.

Please charge the \$130.00 fee required by 37 CFR 1.492(e) to Deposit Account No. 19-0134. Two additional copies of this communication are additionally appended.

Respectfully submitted,

Novartis Corporation  
Patent and Trademark Dept.  
564 Morris Avenue  
Summit, NJ 07901-1027  
(908) 522-6921

  
\_\_\_\_\_  
Joseph J. Borovian  
Agent for Applicants  
Reg. No. 26,631

JJB:mjl

Attachs.: - Executed Declaration and  
Power of Attorney  
- Copy of Transmittal Letter  
- Two additional copies of this communication  
- Postcard

Date: September 3, 1998